

APPEAL NO. 041041
FILED JUNE 24, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 9, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the sixth quarter, October 25, 2003, through January 23, 2004, and for the seventh quarter, January 24 through April 23, 2004. The appellant (carrier) appealed, disputing the determinations of entitlement. The claimant responded, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a low back injury on _____; that the claimant reached maximum medical improvement with an impairment rating of 15% or greater; that the claimant has not commuted any portion of his impairment income benefits; that the qualifying period for the sixth quarter was from July 13 through October 11, 2003; that the qualifying period for the seventh quarter was from October 12, 2003, through January 10, 2004; that the claimant did not seek any employment during the relevant qualifying periods; and that the claimant did not have any earnings for the relevant qualifying periods. The claimant asserts entitlement based on the good faith effort provisions of Rule 130.102(d)(2).

It is undisputed that during the qualifying periods the claimant was enrolled in a full-time vocational program sponsored by the Texas Rehabilitation Commission (TRC). At issue was the satisfactory participation provision in Rule 130.102(d)(2). In evidence was an Individualized Plan for Employment (IPE) dated March 6, 2001, along with two amendments dated February 14 and April 18, 2003. Also in evidence was a letter from the claimant's TRC counselor dated September 3, 2003, which not only stated that the claimant was in fact satisfactorily participating in the TRC program and "complying with the stipulations set forth in his [IPE]," but also states that the claimant has made "considerable improvement" with regards to his reading comprehension. The claimant's TRC counselor concluded her letter by stating that once the claimant passes his GED exam, she would be working with the claimant to obtain employment suitable to his academic and intellectual abilities. Additionally, there was a certificate of participation dated December 17, 2003, in evidence which stated that the claimant has made every effort to participate in class, be on time, stay the entire period, and attend all scheduled classes. In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Robert W. Potts
Appeals Judge